

FAMILY RIGHTS & RESPONSIBILITIES

Rhode Island's Early Intervention Program



early intervention

supporting families and child development

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Rhode Island Department of Human Services

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Introduction

This booklet describes your child's and family's rights, as defined by Part C of the Individuals with Disabilities Education Act (IDEA). IDEA is a federal law, which includes provisions for Early Intervention services for eligible children starting at birth to age three. The Service Coordinator working with your family can help you understand your rights and responsibilities including the information contained in this booklet.

The Early Intervention Program is designed to maximize family involvement and ensure parental consent. Safeguards or rights have been established to protect parents and children. Parents must be informed about these rights so they can have a leadership role in services to their children. Participation in the Early Intervention Program for infants and toddlers is voluntary for you and your family.

Your Family's Roles and Responsibilities

In order for your family to receive the maximum benefits from Early Intervention services, it is important for you to fully participate. You are a key decision-maker and know the needs of your child and family best. You are your child's best advocate throughout his/her life. We ask that you communicate with the Early Intervention staff about your concerns and priorities and let them know honestly what is working for you and what is not. By working together as a team, you can maximize your child's development.

Some suggestions for making the most of each visit:

- Schedule your visit during times that are best for your child and family or other caregivers. Be present and actively participate in all visits.
- Write down any questions you may have and be prepared to discuss what has happened since your last visit.
- Ask to be shown anything you do not completely understand and practice the strategies together during the visit.
- Use the strategies throughout the day with your child and make notes of what is working and what is not.
- Be open and honest with the staff. Don't be afraid to ask questions or tell the staff if something is not going well.
- Provide reasonable notice if you need to cancel or reschedule a visit.

Parents' Rights Under Early Intervention

You and your child's Early Intervention team will consider which services can help you accomplish the outcomes that you want for your child and family. You will be asked to give your consent for the services you want. You do not have to agree to all services that are recommended. You can say no to some and still get other services that you do want. If you decide to try other services at a later date, you can give your consent then.



- The right to a timely multidisciplinary evaluation and/or assessment and a meeting to initiate an *Individualized Family Service Plan* (IFSP) within forty-five (45) calendar days from referral to the EI Program.
- The right to “appropriate Early Intervention services” for your eligible child and family as described in the IFSP.
 - “Appropriate Early Intervention services” are determined through the IFSP process. The IFSP must contain a statement of the specific Early Intervention services necessary to meet the unique needs of your child and family to achieve the outcomes identified in the IFSP. Federal regulations define Early Intervention services as services that “are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child’s development.”

Appropriate Early Intervention services include:

- (1) family training, counseling, and home visits;
- (2) special instruction;
- (3) speech-language therapy; audiology services; sign language and cued language services;
- (4) occupational therapy;
- (5) physical therapy;
- (6) psychological services;
- (7) service coordination;
- (8) medical services, only for diagnostic or evaluation purposes;
- (9) early identification, screening, and assessment services;
- (10) health services necessary to enable the infant or toddler to benefit from the other early intervention services;
- (11) social work services;
- (12) vision services;
- (13) assistive technology devices and assistive technology services; and

(14) transportation costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described above.

- The right to evaluation, assessment, IFSP development, service coordination, and procedural safeguards at no cost;
- The right to refuse evaluations, assessments, and services;
- The right to be invited to and participate in all IFSP meetings;
- The right to receive written notice 7 calendar days before a change is proposed (or refused) in the identification, evaluation, or placement of your child, or in the provision of services to your child or family;
- The right to receive services in natural environments to the extent appropriate;
- The right to maintenance of confidentiality of personally identifiable information;
- The right to review and, if appropriate, correct early intervention records;
- The right to mediation and/or an impartial due process hearing to resolve parent/provider disagreements; and
- The right to file an administrative complaint regarding a violation of a requirement of the Early Intervention Program.

In addition to the general rights listed above, you are entitled to be notified of these specific rights: Parental Consent; Prior Notice, Confidentiality of Information, Individual Child Complaints, Administrative Complaints, and Surrogate Parents. Each of these is described below.

Parental Consent

The Early Intervention Program needs your permission to take any actions that affect your child. You will be asked to give your consent in writing before we evaluate or provide services. Be sure you completely understand the suggested activities. By being involved, you can help the Early Intervention Program plan services that match your family's preferences and needs.



Parental consent means that you, the parent or legal guardian, have been fully informed about the evaluation, assessment, or service that is to take place and you agree with it. Information must be provided to you in your native language or other mode of communication unless it is clearly not possible to do so. Your written consent must be obtained before each evaluation and assessment is conducted and before Early Intervention services are provided.

Parental consent is voluntary and may be withdrawn at any time.

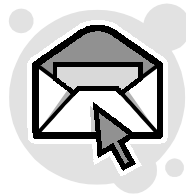
If you do not consent, the EI Program shall make reasonable efforts to ensure that you: (a) are fully aware of the nature of the evaluation and assessment or the services that would be available; and (b) that you understand that your child will not be able to receive the evaluation, assessment, or services unless consent is given.

You may accept or refuse any early intervention service(s) at any time without jeopardizing other early intervention services that your family or child is receiving.

Prior Notice

The Early Intervention Program must give you advance written information about any evaluations, services, or other actions affecting your child. Parents know their child best. The information you share with us will help make sure that the evaluations and services are right for you. The paperwork assures that you get all the details before any activity takes place.

It is your right to thoroughly understand all activities and written records about your child. If you prefer another language or way of communicating we will get an interpreter if possible. The Early Intervention Program wants you to understand so that you can be an informed team member and decision-maker.



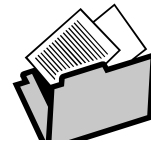
Written prior notice must be given to you 7 calendar days before the EI program can start, stop or change an evaluation, placement or the services to your child and family. The notice must include: the action that is being proposed or refused; the reasons for taking the action; your rights; and the complaint procedures, including a description of how to file a complaint and the timelines for filing a complaint.

The notice must also be written in a language you understand and provided in your native language, unless it is clearly not feasible to do so. If you are deaf, blind, or have no written language, the mode of communication must be one that is normally used by you (such as sign language, Braille, or oral communication).

Confidentiality of Information

The Early Intervention Program values the information you and other providers have learned about your child. We will ask others for this information, but we need your permission in writing to do so. Just as the Early Intervention Program needs your permission to get your child's records from other providers, the records that the Early Intervention program will develop will not be shared with anyone unless you give your written permission.

You have the right to see anything in the Early Intervention record about your child and family. If you do not understand something in the record, it will be explained to you in a way you understand.



The EI Program gives you the opportunity to review any Early Intervention records relating to your child, which are collected, maintained, or used. The EI agency must comply with your request, without unnecessary delay, no more than 45 calendar days after the request has been made.

The right to inspect and review Early Intervention records includes:

- The right to a response from the EI agency to reasonable requests for explanations and interpretations of the Early Intervention record;
- The right to request that the EI agency provide copies of Early Intervention records containing the information if failure to provide these copies would effectively prevent you from exercising the right to inspect and review the early intervention records; and
- The right to have someone who is representing you inspect and review the Early Intervention record.

The EI agency shall provide you, upon request, a list of the types and locations of Early Intervention records collected, maintained or used by the agency.

You have the right to inspect and review only the information relating to your child or to be informed of that specific information, if the Early Intervention record includes information on more than one child.

If you believe that information in Early Intervention records collected, maintained or used is inaccurate or misleading or violates the privacy or other rights of your child or family, you may request that the EI agency change the information. The EI agency will decide whether to change the information within a reasonable period of time after receiving the request. If the agency

refuses to change the information as you requested, you will be informed of the refusal and be advised of the right to a hearing.

The Department of Human Services (DHS) provides an opportunity for a hearing when requested in writing by a family. If a family believes information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, they have a right to a hearing.

Parental consent must be obtained before personally identifiable information is:

- (1) disclosed to anyone other than officials of participating agencies collecting or using information under EI, subject to the next paragraph of this section; or
- (2) used for any purpose other than meeting a requirement under EI.

Information from your child's Early Intervention record can not be released to participating agencies without your consent unless the agency participating in EI is authorized to do so under federal law.

Resolving Disagreements

If you disagree with the plan or services outlined in your child's Individual Family Service Plan (IFSP) or you are dissatisfied with the services you are receiving, you should first speak with your service coordinator about the situation and try to resolve it with your IFSP Team. If you are not able to come to an agreement, you should ask to speak to the Supervisor of the program or the Program Director so that you can discuss your concerns with them. If you still are not able to come to a resolution and you don't want to file a formal complaint just yet, then we would encourage you to contact your EI program's Parent Consultant.

There is at least one Parent Consultant assigned to each Early Intervention Program. Parent Consultants are parents of children that have received services from Early Intervention in the past. They know the Early Intervention Program and may be able to assist you in resolving any concerns you may have. The Parent Consultants are contracted employees through the Rhode Island Parent Information Network who work with parents and professionals to help support families that receive Early Intervention services. To speak to your Parent Consultant just contact your Early Intervention Program and ask for the Early Intervention Parent Consultant.



Formal Complaint Procedures

If you disagree with the EI program on the identification, evaluation, placement of your child, or provision of appropriate Early Intervention services to your child or family, you have the right to a timely resolution of your concerns through mediation and/or an impartial due process hearing.

Mediation

If you and the Early Intervention team don't agree on plans or services for your child, or if you have other complaints about your experience with the program, there are procedures for resolving your concerns. When informal ways of sharing your concerns, such as speaking to a program clinical supervisor or director don't work, you may submit a formal written complaint (refer to page 15 for a sample letter). Mediation will be offered as a voluntary first step. A trained, impartial mediator will facilitate problem solving between you and the Early Intervention Program. If you cannot reach an agreement that satisfies you both, you can have a due process hearing to resolve your complaint. Mediation will not slow down the hearing process.



DHS assures that parents or other affected parties have a right to access mediation services in order to address disputes related to the identification, evaluation, or provision of appropriate Early Intervention services under Part C of IDEA. The Early Intervention mediation process is voluntary on the part of all parties. Mediation may not be used to deny or delay a parent's right to an administrative proceeding or State complaint, or to otherwise deny the parent's or other party's rights under Part C of IDEA. The mediation must be conducted by a qualified and impartial mediator trained in effective mediation techniques.

Written requests for mediation are sent to:

RI Department of Human Services, The Early Intervention Program,
Center for Child and Family Health, 600 New London Avenue, Cranston, RI 02920

The DHS maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services, and coordinates the assignment of an appropriately qualified mediator. DHS will coordinate the assignment of a qualified mediator.

Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties in the dispute. The assigned mediator shall prepare a written mediation agreement, which identifies the agreement reached by the involved parties. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent administrative proceeding or civil proceeding. DHS shall bear the

cost of the mediation meeting, except any legal representation that parents or other parties may choose to have present.

Due Process Hearings

A due process hearing is a formal procedure that begins with a formal written complaint requesting a due process hearing. A knowledgeable and impartial person from outside the program hears and decides how to best resolve it.



A parent may request a due process hearing regarding Early Intervention's proposal or refusal to initiate or change the identification, evaluation, placement or provision of appropriate Early Intervention services by submitting a written request for a due process hearing.

Written requests for a due process hearing are sent to:

RI Department of Human Services, The Early Intervention Program,
Center for Child and Family Health, 600 New London Avenue, Cranston, RI 02920

The written request, submitted by the parent or the parent's attorney, must include the name and address of the child, name of the parent submitting the request, description of the facts related to the problem and proposed ways to resolve the problem, if known.

When a parent requests a hearing, DHS will inform the parent of the right to mediation and of any free or low-cost legal services available to the parent. DHS will be responsible for assigning an impartial hearing officer. The hearing officer assigned must have knowledge about the provision of Part C and about the needs of and services available for eligible children and their families. The hearing officer will perform the following duties:

- Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint.
- Provide a record of the proceedings, including a written decision.

The impartial person may not be an employee of any agency involved in the provision of Early Intervention services or care of the child or child's family. The impartial person may not have a personal or professional interest conflicting with his/her objectivity in the complaint resolution process. Parties involved in administrative hearings/due process proceedings have the right to:

- Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children eligible under Part C of IDEA.
- Present evidence and confront, cross-examine, and compel the attendance of witnesses.
- Prohibit the introduction of any evidence at the due process hearing that has not been disclosed to the parent at least five days before the hearing.
- Obtain written or electronic verbatim transcription of the proceeding and obtain written findings of fact and decisions.

Due process hearings are conducted at a time and place that are reasonably convenient to parents. During the proceeding, the child will continue to receive appropriate Early Intervention services currently provided unless the parent and EI disagree. If a complaint involves initial services, the child will receive those services that are not in dispute. DHS shall bear the cost of the due process hearing meeting, except for the cost of any legal or other representation that the family or other party may choose to have present.

When due process hearing proceedings are completed, a written decision will be mailed to each party within thirty (30) days after the receipt of a parent's complaint. The EI agency is bound by the decision of the impartial decision-maker and is required to implement the decision unless it is reversed in a court of law. Any party aggrieved by the findings and decision as a result of an administrative complaint has the right to bring a civil action in State and Federal court.

State Complaint Procedures

You may file a state complaint or "administrative" complaint when DHS or an Early Intervention provider is violating a requirement of Part C of the IDEA such as: timelines, confidentiality, parental consent and other requirements as stated in the federal law. This complaint must be in written form. For a sample letter please refer to page 15.



Any individual or organization, including an individual or organization from another state, may file a complaint that a public agency or private service provider is violating a requirement of Part C of the IDEA. This is done by filing a written complaint with the DHS. The complaint must be written and signed and include a statement of the State, other public agency, or local Early Intervention provider that is identified as violating a requirement of Part C law or regulations. The complaint must also include the facts upon which the complaint is based.

The complaint should be mailed to:

RI Department of Human Services, The Early Intervention Program
Center for Child and Family Health, 600 New London Avenue, Cranston, RI 02920

The alleged violation must have occurred not more than one year before the date the complaint is received by DHS, unless a longer period is reasonable because: 1) The alleged violation continues for that child or other children; or 2) The individual filing the complaint is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received.

Written procedures for State complaints are available in this Early Intervention Family Rights and Responsibilities Booklet. After the complaint is filed, DHS will give the parent or other individual /agency the opportunity to provide information regarding the issues in the complaint. DHS will investigate and resolve the complaint, including a review of all relevant information and an independent on-site investigation if necessary.

DHS will offer mediation to the parent or other individuals and/or agencies involved. However mediation cannot be required nor used to delay the right to a timely resolution.

DHS will issue a letter of findings within 60 days of receipt of the complaint. An extension of the timelines will be permitted only if exceptional circumstances exist with respect to a particular complaint.

The letter will address each allegation with findings of fact, reasons for final decisions, and instructions to the agency or individual to correct any violations found during the investigation. DHS staff will identify the corrective actions necessary to achieve compliance and offer technical assistance and negotiation. If the complaint involved the delivery of appropriate services and the agency/provider is found to have failed to provide appropriate services, DHS will identify how the agency/provider must remedy the violation. This will include, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family, and appropriate future provision of services for all infants and toddlers with disabilities and their families.

If a written State complaint is received on the same subject of a due process hearing, or contains multiple issues, of which one or more are part of a due process hearing, the complaint investigation on the issues that are the same will be delayed until the due process decision is issued. Remaining complaint issues will be investigated within the 60 day timeline using the State complaint procedures described above.

Parents with issues previously decided in a due process hearing will be notified that the hearing decision is binding. Parent complaints alleging a public agency's or private service provider's failure to implement a due process decision will be investigated.

Surrogate Parents

Early Intervention "surrogate" parents are appointed when:

- *The child is a ward of the state and the parent(s) have waived their right to make decisions in the Early Intervention Program,*
- *the parent's whereabouts are unknown, or*
- *parental rights have been terminated.*



The rights of children eligible under Early Intervention are protected even if no parent can be identified; the Early Intervention Program, after reasonable efforts, cannot discover the whereabouts of a parent; or the child is a ward of the state.

An individual is assigned to act as a "surrogate" for the child according to the procedures that follow. The procedures include a method for determining whether a child needs a surrogate

parent and assigning a surrogate to the child. The following criteria are employed when selecting surrogates:

- Surrogate parents are selected in the manner authorized by state law.
- A person selected as surrogate parent has no interest that conflicts with the interest of the child he or she represents; has knowledge and skills that ensure adequate representation of the child; and is not an employee of any state agency or a person or an employee of a person providing Early Intervention services to the child or to any family member of the child.

A person who otherwise qualifies to be a surrogate parent under this section is not an employee solely because he or she is paid by a public agency to serve as a surrogate parent; and lives in the same general geographic area as the child, whenever possible.

A surrogate parent may represent the child in all matters relating to: the evaluation and assessment of the child; the development and implementation of the child's IFSP, including annual and periodic reviews; the ongoing provision of Early Intervention services to the child; and any other rights established under the EI Program.

SAMPLE FORMAL COMPLAINT LETTER

Department of Human Services
Center for Child and Family Health
600 New London Avenue
Cranston, RI 02920

Date:

Re: Child's name
Date of Birth
Social Security Number

To Whom it May Concern:

Please consider this to be a formal letter of complaint, pursuant to the Rules and Regulations of the Department of Human Services (R23-13-EIS-Section 14) and pertaining to the Provision of Early Intervention Services for Infants and Toddlers with Disabilities and their Families.

[Please describe the problem and how the EI Provider violated specific regulations and what you would like to happen, which may include mediation or an impartial hearing]

Sincerely,

Parent or guardian



Ronald A. Lebel, Acting Director

Donald L. Carcieri, Governor

RI Department of Human Services
Center for Child and Family Health
600 New London Avenue
Cranston, Rhode Island 02920
401-462-5300
www.dhs.ri.gov

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